

STATEMENT OF EMERGENCY
102 KAR 1:360E

This emergency administrative regulation is being promulgated in contemplation of the requirements of House Bill 258(2021 RS) to provide individuals who become members of Teachers' Retirement System on or after January 1, 2022, with a disability benefit. The passage of the act and the start of the new benefits on January 1, 2022, necessitate the filing of this administrative regulation as an emergency because a member may become disabled as early as January 1, 2022, and be entitled to benefits that would be ongoing. This emergency administrative regulation will not be replaced by an ordinary administrative regulation, as a new regulation shall be established once the eligibility requirements to file for disability benefits and guidelines for filing an application by new members have been developed by the Teachers' Retirement System. The new eligibility requirements shall also address those members who have five (5) or more years of service.

ANDY BESHEAR, Governor
ALISON WRIGHT, Chairperson

FINANCE AND ADMINISTRATION CABINET
Teachers' Retirement System
(New Emergency Administrative Regulation)

102 KAR 1:360E. Disability benefits for members who enter on, or after, January 1, 2022.

EFFECTIVE: December 28, 2021

RELATES TO: KRS 161.661(19)

STATUTORY AUTHORITY: KRS 161.310, 161.661(19)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.661(19) provides that individuals who become members on, or after, January 1, 2022, shall be eligible for a disability benefit as prescribed by the Board of Trustees of Teachers' Retirement System (TRS) in an administrative regulation promulgated by the board. The disability plan and benefits may be adjusted by the board according to law.

Section 1. For members who enter TRS on, or after, January 1, 2022, who have less than five (5) years of service, the disability plan and benefits shall be those provided under KRS 61.621 (the Fred Capps Memorial Act).

Section 2. The members defined in Section 1 are not eligible for benefits provided by KRS 161.663.

ALISON WRIGHT, Chairperson

APPROVED BY AGENCY: December 22, 2021

FILED WITH LRC: December 28, 2021 at 12:45 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Wednesday, February 23, 2022, at 9:00 a.m. Eastern Time at the offices of the retirement system at 479 Versailles Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by Wednesday, February 16, 2022, five (5) working days prior to the hearing, of their intent to attend. If no notification of

intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation until the end of the calendar day on Monday, February 28, 2022. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Robert B. Barnes, Deputy Executive Secretary of Operations and General Counsel, Teachers' Retirement System, 479 Versailles Road, Frankfort, Kentucky 40601, phone (502) 848-8508, fax (502) 573-0199, email Beau.Barnes@trs.ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Robert B. Barnes

(1) Provide a brief summary of:

(a) What this administrative regulation does: Establishes that members who enter the retirement system on, or after January 1, 2022 (new members), who have less than five (5) years of service credit, shall be provided disability benefits under KRS 61.621.

(b) The necessity of this administrative regulation: This regulation is being filed as an emergency as a result of legislation enacted during the 2021 session requiring the board to promulgate an administrative regulation to provide disability benefits for new members. The potential exists for a member to become disabled as early as January 1, 2022, and be entitled to benefits that would be ongoing.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This emergency administrative regulation conforms to KRS 161.661 as it was amended by HB 258 (2021 RS) and which requires the board to promulgate an administrative regulation to provide disability benefits for new members.

(d). How this administrative regulation currently assists or will assist in the effective administration of the statutes: This emergency administrative regulation will identify for members entering the retirement system on, or after January 1, 2022, who have less than five (5) years of service credit that disability plan and benefits shall be provided to them under KRS 61.621.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: NA

(b) The necessity of the amendment to this administrative regulation: NA

(c) How the amendment conforms to the content of the authorizing statutes: NA

(d) How the amendment will assist in the effective administration of the statutes: NA

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Members who enter the retirement system on, or after January 1, 2022, who have less than five (5) years of service credit and become disabled as a result of a job-related injury. TRS has had less than twenty (20) individuals become disabled as a result of a job-related injury for at least ten (10) years.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: The disability plan and benefits provided to those new members will be provided under KRS 61.621.

(a) List the actions that each of the regulated entities identified in question (3) will have to comply with this administrative regulation or amendment: New members would file an application for disability pursuant to the requirements of KRS 61.621.

(b) In complying with this administrative regulation or amendment, how much will it cost each

of the entities identified in question (3): The cost to the new members is part of the retirement contribution they make to TRS.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): New members who become disabled on, or after January 1, 2022, will be eligible to file for, and receive, disability benefits.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There is no cost to implement this regulation.

(b) On a continuing basis: There is no continuing cost.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: Administrative expenses of the retirement system are paid by trust and agency are paid from restricted funds of the system.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fees or funding required.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish any fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applied, as all members are treated the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Teachers' Retirement System.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 161.310, 161.661.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? Administrative costs will be dependent upon the number of applications processed and cannot be quantified at this time. Given the very small number of members that will likely be impacted, however, administrative costs will be very low.

(d) How much will it cost to administer this program for subsequent years? Administrative costs incurred will be dependent upon the number of applications processed and cannot be quantified at this time. Given the very small number of members that will likely be impacted, however, administrative costs will be very low.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): N/A

Expenditures (+/-): N/A

Other Explanation: